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PACIFIC TELESIS
Group-Washington

DOCKET FILE COPY ORIGINAL

June 7, 1993

Donna R. Searcy
Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Ms Searcy:

Re: *RM-8221 - Amendments of Parts 32, 36, 61, 64, and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "*Reply Comments*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendments of Parts 32, 36, 61, 64, and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service	)	RM-8221
	)	
	)	
	)	

REPLY COMMENTS OF PACIFIC BELL AND NEVADA BELL

Pacific Bell and Nevada Bell (hereafter "the Pacific Companies") submit their reply to comments responding to the Commission's Public Notice, dated April 21, 1993, on the Joint Petition for Rulemaking and Request for Establishment of a Joint Board ("Petition") by Consumer Federation of America ("CFA") and the National Cable Television Association ("NCTA") (collectively known as "Petitioners").

I. The Commission Should Not Permit Any Delay To The Review And Grant Of Existing Or Proposed 214 Applications.

could result in consumer benefits of video dialtone and other broadband services.[1] A few commentors in support of the Petition also support a moritorium on the Commission's review of Section 214 applications.[2] That course would guarantee a very long delay in the availability of consumer benefits or alternatives for video programming. The request to delay Section 214 review is a prime example of how the regulatory process is used to delay competition. Delay must be the reason for the request since the Commission has said that it would require any condition necessary to protect against cross-subsidy and discrimination. Moreover, by deferring Section 214 applications, the Commission would eliminate the opportunity to evaluate the applicability of the existing regulatory rules to the specific proposal for video service delivery.

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[1] Comments of the National Association of State Utility Consumer Advocates ("NASUCA"), dated May 20, 1993, p. 2; Comments of American Telephone and Telegraph Company ("AT&T"), p. 2; Comments of the Fiber Optics Division of the Telecommunications Industry Association, pp. 2-3; Comments of the World Institute on Disability, the Consumer Interest Research Institute, Henry Geller and Barbara O'Conner, pp. 3-4; letter from The Edison Media Arts Consortium, p. 2; letter from Citizens for a Sound Economy Foundation; all dated May 21, 1993.

[2] Comments by the New Jersey Cable Television Association, Inc. ("NJCTA"), dated May 21, 1993, p. 9; Comments of the Indiana Utility Regulatory Commission and the Michigan Public Service Commission Staff, dated May 21, 1993, p. 3.

II. Comments Do Not Provide New Evidence To Overcome The Commission's Prior Conclusion That Revision Of Its Rules Is Not Now Required.

The comments supporting Petitioners' request for rulemaking fail to provide any new reason or raise any new evidence that would require the Commission to undertake a clearly premature and isolated review of its rules at this time. Supporters of the Petition, such as NJCTA, NASUCA and INTV,[3] merely reiterate previously raised issues. CCTA[4] goes one step further and reiterates having raised the issues of proper cost allocation in numerous contexts. Because it is unable to provide substantive new reasons or evidence to warrant a reversal of the Commission's prior position that current rules are effective, CCTA resorts to repeating its conclusory statements and demand for the release of the Commission's audit report that were previously refuted by Pacific Bell.[5] However, in this proceeding, as before, CCTA fails to show any overriding public

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[3] See NJCTA, NASUCA and Association of Independent Television Studios, Inc. ("INTV"), dated May 21, 1993.

[4] Comments of California Cable Television Association in Support of CFA/NCTA Joint Petition for Rulemaking and Request for Establishment of a Joint Board, dated May 21, 1993 ("CCTA").

[5] Pacific Bell previously responded to CCTA's allegations in several other proceedings. See Pacific Bell's Application to Discontinue Channel Service, W-P-D 354, Pacific Bell's Opposition to Comments to Request for Waiver, dated July 12, 1990; Telephone Company Cable Television Cross-Ownership Rules, Section 63.54 - 63.58; CC Docket No. 87-266, Reply Comments of Pacific Telesis Group, Pacific Bell and Nevada Bell, dated March 5, 1992.

interest which would overcome the Commission's obligation to keep audit information confidential.[6]

a. CCTA's Allegation Of Improper Accounting Treatment Is False And Completely Unsubstantiated.

CCTA misconstrues Pacific Bell's testimony before the California Public Utilities Commission ("CPUC") on intrastate depreciation rates, erroneously alleging that Pacific Bell flaunted the FCC order that all Palo Alto cable TV channel distribution service expenses be segregated from telephone ratepayer accounts. CCTA incorrectly alleged, first to the CPUC and now in this proceeding, that Pacific Bell sought to include the sale of the Palo Alto cable TV plant as an adjustment to its calculation of net salvage for its exchange metallic accounts.[7] Pacific Bell strongly refuted the false allegation in the CPUC proceeding and reasserts its rebuttal here.[8]

Pacific Bell did not attempt to change the future net salvage value of any of its exchange metallic cable accounts as a result of the sale of its Palo Alto facility. First, the effects of the Palo Alto facility sale could not have influenced

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6 47 U.S.C. §220(f).

7 CCTA Comments, p. 5.

8 Concurrent Brief of the California Cable Television Association, dated January 20, 1993, pp. 17-18. The CPUC's proposed decision in the intrastate depreciation proceeding, issued on April 26, 1993, did not even mention CCTA's erroneous allegation, and CCTA did not file any comments alleging that the proposed decision was in error.

Pacific's future net salvage proposal in the CPUC depreciation proceeding because Pacific Bell proposed to retain the same

b. Implementation Issues Should Be Addressed In The Context Of The Specific 214 Applications Or In A Comprehensive Review Of The Rules.

Several commentors suggest the separation of costs of providing video dialtone is an issue requiring Part 36 rule revision.[10] Given the start-up nature of video dialtone offerings compared to the huge amount of voice/data services for which facilities are used, it is highly unlikely that new video dialtone services will cause any immediate change in the overall separation factors used to allocate costs between the jurisdictions. The Commission's current conditions that require tracking usage and cost of each individual project is the most appropriate way to deal with the allocation issue until sufficient information is available from which a general rule can be developed, if needed.[11] Discussion continues within the industry about appropriate methods to allocate costs between jurisdictions but it is felt that these issues should be addressed in a comprehensive review of Part 36. The Commission should continue to require detailed information that will provide a logical basis for any general rulemaking.

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[10] National Association of Regulatory Utility Commissioners, ("NARUC"), dated May 21, 1993, p. 6; NASUCA, p. 10; AT&T, pp. 6-7; NJCTA, p. 14.

[11] Application of the Chesapeake and Potomac Telephone Company of Virginia For Authority pursuant to Section 214 of the Communications Act of 1934, W-P-C 6834, Order and Authorization, March 25, 1993.

c. The Uniform System Of Accounts Should Not Be Revised.

Contrary to the assertions of some commentors, Part 32 should not be modified specifically for video dialtone services. The Uniform System of Accounts was developed as a functional accounting system. The Commission specifically adopted "a functional and technological view of the telecommunications industry ... which will provide a stable and consistent foundation for the recording of financial data".[12] Specific requests for accounting treatment that require separation by network architecture[13] or separate accounts for investment categories such as loops and trunks[14] misunderstand the purpose of the accounting system. The Commission specifically rejected adopting a methodology which reflected an "a priori allocation of revenues, investments or expenses to products or services, jurisdictions or organizational structures".[15]

The distinction among products or services currently occurs in the processes which act upon the basic system of accounts. The financial data in the accounts provide information necessary to support Parts 64, 36, 61 and 69 requirements.[16]

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12 47 C.F.R. Section 32.2(e).

13 NASUCA, p. 10.

14 AT&T, p. 7.

15 47 C.F.R. Section 32.2(b).

16 If the Commission wishes greater detail about how the allocations occur, subsidiary records are available to the Commission via data request or audit.

If the Commission believes that any specific adjustments for the separation of costs should be made specifically for video dialtone, they should be made to the regulations designed to accomplish allocations among products and services, such as Parts 64, 36 and 69. And, the revisions should be made in a larger context than just video dialtone revisions. A comprehensive review is preferable to piecemeal adjustment for video dialtone services.

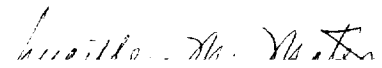
III. Conclusion.

The Commission should reject the Petition for Rulemaking and continue to review and approve Section 214 applications for video dialtone services. As the Commission previously found, the current accounting and separations rules can be applied appropriately to a video dialtone offering. Any implementation issues concerning those rules should be resolved in the individual Section 214 application proceedings. Those proceedings provide the Commission with the opportunity to gain experience with evolving video dialtone offerings. Moreover, in that context, conditions can be specifically tailored to accomplish intended results. Commentors failed to provide any

evidence to cause the Commission to change its recent decisions on these issues. For the reasons provided above, the Commission should deny the Petition for Rulemaking.

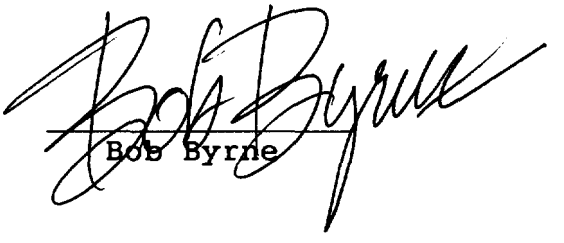
Respectfully submitted,

PACIFIC BELL
NEVADA BELL



CERTIFICATE OF SERVICE

A copy of the reply comments from Pacific and Nevada Bell regarding the CFA & NCTA Joint Petition for Rulemaking and Request for Establishment of a Joint Board -- RM 8221 -- was mailed to the attached list of parties on June 7, 1993.



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